IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 8TH JUNE 2007 / 18TH JYAISHTA 1929

Crl.MC.No. 1848 of 2007()

CP.85/2006 of JUDL.MAGISTRATE OF FIRST CLASS, PARAVOOR

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PETITIONER:

VIJAYAMMA, W/O.LATE VIJAYAN,
RESIDING AT THODIYIL VEEDU,
CHIRACKARATHAZHOM CHERRY,
CHIRACKARA VILLAGE, KOLLAM DISTRICT.

BY ADV. SRI.V.VENUGOPALAN NAIR

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
PARIPPALLY, KOLLAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 08/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1848 of 2007

Dated this the 8th day of June, 2007

ORDER

Petitioner faces indictment in a prosecution under the provisions of the Kerala Abkari Act. His anticipatory bail application was rejected. He could not appear before the learned Magistrate. Final report has now been filed. The petitioner wants to appear before the learned Magistrate now. According to him, he is innocent. He further submits that his inability to appear earlier before the learned Magistrate was on account of reasons beyond his control.

2. The petitioner is willing to surrender before the learned Magistrate and apply for bail, but he apprehends that this application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He therefore prays that a direction may be issued under Section 482 Cr.P.C to the learned Magistrate to release him on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. The learned Magistrate must consider such application for bail on merits, in accordance with law and expeditiously. I have

no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed. But with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

5. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-